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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,494	04/06/2005	Olaf Such	DE 020217	4785

24737 7590 07/30/2007
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BRIARCLIFF MANOR, NY 10510

EXAMINER

NAQI, SHARICK

ART UNIT	PAPER NUMBER
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3736

MAIL DATE	DELIVERY MODE
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07/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ED

Office Action Summary	Application No.		Applicant(s)	
	10/530,494		SUCH ET AL.	
	Examiner		Art Unit	
	Sharick Naqi		3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The examiner acknowledges the amendment filed on May 01, 2007.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 rejected under 35 U.S.C. 102(b) as being anticipated by Rode et al.

USPN 6,315,719 cited by Applicant in the IDS.

1. (Currently Amended) A system (1) for monitoring a physiological condition of an individual, comprising

sensing means (3) (*Fig. 1 – 1 Sensor*) arranged to pick up a first signal (M) in a first mode of the system, said first signal being representative of said physiological condition and to forward said first signal to a signal processing unit (33) (*Fig. 1 – 3 Microchip*), characterized in that said system comprises a control unit (2) (*Fig. 3 – 10 body transceiver*) capable of being selectively actuated to effect a system mode change and positioned remote from said signal processing unit, said control unit (2) being suitable to generate a second signal (T) arranged to be transmitted to said sensing means and superimposed on the first signal (m), said signal processing unit (33, 37) being arranged to decode the second signal and to make the system enter into a second mode upon receipt of the second signal (t). (column 2, lines 30-55, column 6, lines 5-21)

Claims 2-5 are rejected on substantially the same basis. See previous office actions for details of the rejection.

6. (Currently Amended) A control unit (2) capable of being selectively actuated and suitable for a personal monitoring system (3), said personal monitoring system being arranged to pick up a signal (M) representative of a physiological condition of an individual, characterized in that said control unit is arranged to control the personal monitoring system (3) by means of a generation of a suitable trigger signal (T) which is transmitted to said personal monitoring system, and by superimposing said trigger signal (t) on the signal representative of the monitored physiological condition to control an operating mode of the monitoring system. (column 2, lines 30-55, column 6, lines 5-21)

Claims 7-9 are rejected on substantially the same basis. See previous office actions for details of the rejection.

Response to Arguments

Applicant's arguments filed May 1, 2007 have been fully considered but they are not persuasive.

The Applicant argues that the applied prior art does not show nor suggest the teaching of a control unit which is selectively actuated to effect a system mode change by generating a second signal which is superimposed on a first signal in order to cause the monitoring system to enter a second mode. The Examiner respectfully disagrees.

The Applicant claims, "a control unit **capable of** being selectively actuated to effect an system mode change" (claim 1). "**Capable of**" is intended use/functional language, therefore the limitation is not positively recited. However, even if the recitation is positively recited, the applied prior art is sufficient to reject it because in column 6, lines 5-21, the prior art states, "The transmit/receive electrodes 2 can also receive signals through the skin and other body tissues of the subject, for example from the body transceiver that will be discussed below. Such received signals are provided to the transceiver 7, which may then take appropriate action or provide appropriate signals responsive to the received signal. For example, the received signal may be a query or polling signal or an address code signal, that particularly requests the respective identified sensor unit SU to provide its measured data at the given time. Alternatively, the received signal may be a maintenance signal that calls for the transceiver to transmit a signal indicating the remaining power level of the battery 8, or a diagnostic signal or the like. A certain degree of reprogramming or program switching in the microchip 3 can also be carried out responsively to an appropriate received signal." This disclosure is sufficient to reject the claimed invention.

Applicant is invited to request an interview to discuss suggestions to overcome the applied prior art.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharick Naqi whose telephone number is 571-272-3041. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SN
July 23, 2007


MAX F. HINDENBURG
SENIOR PATENT EXAMINER
TECHNOLOGY CENTER 3700